THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.18764 of 2006

Dated: 24.07.2007

Between:

J.C.Subbaiah.

..Petitioner.

And

The Vice Chancellor, Andhra University, Visakhapatnam and another.

.. Respondents.

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.18764 of 2006

ORDER:

The petitioner filed this writ petition with the following prayer:

"to declare the proceedings No.S.III(1)/197/95 dated 22.04.2006 confirming the proceedings No.S.III(1)/197/95 dated 15.02.2006 rejecting the payment of salary for the period from 16.05.2004 to 16.09.2004 to petitioner on the ground that he has not worked any where during the said period is highly illegal and unjustified, with a direction to the respondent to pay the salary for the period from 16.05.2004 to 16.09.2004 to the petitioner with all consequential benefits."

2. The petitioner retired from service on 31.07.2005 on attaining the age of superannuation. He states that while working as Assistant Registrar in the Department of Commerce and Management Studies, A.U College of Arts and Commerce, he was transferred and posted to A.U. Study Centre, C.S.R.Sarma college, Ongole on 15.05.2004. Aggrieved by the same, he filed

W.P.No.9199 of 2004, in which an interim order of *status quo* existing as on today with regard to continuance of the petitioner as Assistant registrar, until further orders was ordered. Consequent on dismissal of W.P.No.9199 of 2004, by order dated 16.07.2004, he preferred an appeal in W.A.No.1300 of 2004, which was disposed of, giving liberty to the petitioner to put forth his grievance by way of representation. Accordingly, he made representation to the 2nd respondent on 24.12.2005 seeking to release his salary for the period from 16.05.2004 to 16.09.2004, but the same was rejected on the ground that the petitioner has not worked anywhere during the said period. The review petition filed by him on 27.02.2006 was also rejected by the 2nd respondent by reason of the impugned order. Hence, the petitioner filed the present writ petition.

3. The 2nd respondent filed counter-affidavit stating that the transfer of the petitioner from the Department of Commerce and Management Studies, A.U.College of Arts and Commerce to A.U.Study Centre, C.S.R.Sarma College, Ongole was made only on administrative grounds, and as such, it cannot be termed as illegal. He states that the petitioner has not worked anywhere during the period from 16.05.2004 to 16.09.2004 and as such, he is

not entitled for salary for the said period, and the petitioner, without giving any cogent reasons for not working during that interregnum period, is seeking salary, as a matter of right, which is untenable.

4. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent-University.

5. The petitioner filed W.P.No.9199 of 2004 questioning his transfer from the Department of Commerce and Management Studies, A.U.College of Arts and Commerce to A.U.Study Centre, C.S.R.Sarma College, Ongole. In the said writ petition, interim orders of *status quo* existing as on today with regard to continuance of the petitioner as Assistant Registrar was ordered. Consequent on dismissal of the said writ petition, the petitioner filed W.A.No.1300 of 2004, which was disposed of, giving liberty to the petitioner to file representation to the Executive Council, putting forth his grievance. On the representation of the petitioner seeking payment of salary for the period from 16.05.2004 to 16.09.2004, the 2nd respondent rejected the same on the ground that he has not worked any were during the said period. The petitioner has not shown any provision disclosing that the said transfer is illegal. Once the transfer is not declared as illegal, and

unless and until the transfer is declared illegal, the petitioner cannot contend that he is entitled to salary for the period from 16.05.2004 to 16.09.2004. That apart, the petitioner has not produced any material to show that he worked for the said period. In such circumstances, no direction can be given to the respondents to pay the salary for the period from 16.05.2004 to 16.09.2004 to the petitioner.

6. Hence, the Writ Petition is devoid of merit and the same is dismissed. No costs.

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N.V.RAMANA, J

Dated:24.07.2007

sj